



February 22, 2007

TO: Transportation Authority of Marin Commissioners

FROM: Dianne Steinhauser, Executive Director

RE: Resolution of Commitment to SMART – Puerto Suello Hill, Agenda Item 11

Dear Commissioners:

Executive Summary

Over the past five months, TAM has been working with Caltrans to finalize the plans, specs, and estimates for the Highway 101 Gap Closure HOV lane over Puerto Suello Hill. In the course of the process that staff has gone through to finalize the plans, staff from SMART, Sonoma Marin Area Rail Transit, have participated in regular meetings to make sure the railroad relocation is included in the project in details acceptable to SMART. The last set of SMART comments before finalizing the contract plans were received December 9th, and all of those comments have been addressed. The plans and specs were finalized January 31st and the project is ready to advertise. Full funding for the project is finally in place, with the California Transportation Commission approving the last piece of funding on February 1st, \$12.778 million.

SMART is the successor to the November 2002 Agreement between the Golden Gate Bridge Highway and Transportation District and the State of California regarding the relocation of the rail facilities over Puerto Suello Hill for the highway project to proceed. In that agreement, SMART has the ability to refuse to transfer final property rights over to Caltrans until they “execute a Notice of Acceptance of the REPLACEMENT RAILROAD FACILITIES after their construction in compliance with the previously approved plans and specifications and any approved change orders.” This hammer allows SMART to withhold the final rights of Caltrans to operate the highway improvements newly constructed on existing rail property until and unless the newly reconstructed railroad is complete to SMART’s satisfaction. The same agreement goes on to require SMART’s approval of any and all change orders affecting SMART.

While these hammers already exist, SMART remains concerned that, unless the railroad is fully reconstructed prior to any demolition of the existing rail facilities, they are not assured that the rail facilities will be fully and adequately rebuilt. The current plans for the project, which are ready-to-advertise, do not mandate how the contractor stages the work, only that he completes all the work required in the plans and specs. This is very typical for a Caltrans contract. SMART has refused to approve the plans and specs for the project unless the

SMART work is done first and completed prior to any other work being done. This would be a major change in the plans and specs. Recent experience SMART has had in Cloverdale and Petaluma with other public agencies has suggested that requiring the reconstruction of the tracks first is the best assurance that the rail work will be completed as planned.

The difficulty in meeting SMART's request, at this point in time, is that the project estimate has been certified by Caltrans, and any change to the project, at this point, will trigger a new estimate. There is no doubt the overall estimate will increase. Our preliminary discussions with Caltrans as well as several construction engineers familiar with this type of work indicate the project will cost more if the contractor is hampered in freely accessing the project from both sides of the work zone. Caltrans has recommended this be assessed and then included in the contract cost estimate. A need for additional funds could result in a substantial delay to the project.

To assure SMART that the work will be completed, TAM staff have developed the attached resolution. This was reviewed and supported by the Executive Committee.

Recommendation: Approve the attached Resolution of Commitment to SMART on the condition that SMART approve the plans and specifications for the Hwy. 101 Gap Closure Segment 4 project over Puerto Suello Hill in the next week so as not to delay project advertisement.

RESOLUTION 2007-xx

RESOLUTION OF THE TRANSPORTATION AUTHORITY OF MARIN (TAM) TO COMMIT TO THE FUNDING AND CONSTRUCTION OF THE HIGHWAY 101 GAP CLOSURE PROJECT, PUERTO SUELLO HILL SEGMENT, INCLUDING THE FUNDING AND RELOCATION OF THE SMART RAILROAD TRACKS BY SEPTEMBER 2009

WHEREAS, the State Department of Transportation intends to provide high occupancy vehicle lanes on U.S. Highway 101 including the relocation of SMART railroad tracks; and

WHEREAS, the improvement is needed to relieve significant congestion in the corridor, facilitate traffic flows and to improve safety; and

WHEREAS, TAM is fully committed to building the project as described in the attached plans and specifications, and as codified through the following funding agreements: January 29, 2004 the State Department of Transportation and TAM entered into Financial Contribution Agreement No. 4-1938-C; and on April 28, 2005 the State Department of Transportation and TAM entered into Amendment No. 1 to Financial Contribution Agreement No. 4-1938-C documenting TAM's financial participation in the project; and on July 21, 2006 the State Department of Transportation and TAM entered into Amendment No. 2 to Financial Contribution Agreement No. 4-1938-A2 to include a multi-use path, sound absorbing soundwalls and additional funding to the project; and on January 30th, 2007 the State Department of Transportation and TAM entered into Amendment No. 3 to Financial Contribution Agreement No. 4-1938-A3 to allocate additional Measure A and other local funds to the project to cover construction cost increases; and

WHEREAS, TAM is committed to the completion of the construction and funding of the project including the relocation of the SMART railroad tracks in accordance with the agreement between SMART and Caltrans, formerly between the Golden Gate Bridge Highway and Transportation District and Caltrans;

WHEREAS, TAM agrees that if upon bid opening, the bids are higher than the current allocated funding for the project, it will diligently pursue additional funding to build the entire project as described in the attached plans and specifications for the project if; and

NOW, THEREFORE, BE IT RESOLVED that the Transportation Authority of Marin does hereby commit to the funding and construction of the Highway 101 Gap Closure Project, Puerto Suello Hill segment, including the funding and relocation of the SMART railroad tracks per the plans and specifications approved by SMART; and

BE IT RESOLVED that the railroad will be placed in its final location as per the attached plans and specifications.

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin on the 22nd day of February, 2007 by the following vote to-wit:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

STEVE KINSEY, CHAIR
TRANSPORTATION AUTHORITY OF MARIN

ATTEST:

Dianne Steinhauser
Executive Director